
Federal Communications Commission

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	File No. EB-03-CF-401
)	
Louisa Communications, Inc.)	NAL/Acct. No. 200432340001
WZAQ)	
Louisa, Kentucky)	FRN: 0003 7801 03

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: January 12, 2004

By the District Director, Columbia Office, Enforcement Bureau:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture ("NAL"), we find that Louisa Communications, Inc. ("Louisa") has apparently violated Section 17.4(a)(2) of the Commission's Rules¹ ("Rules"), by failing to register its antenna structure. We conclude that Louisa is apparently liable for a forfeiture in the amount of three thousand dollars (\$3,000).

II. BACKGROUND

2. On July 16, 2003, an agent from the Commission's Columbia, Maryland office inspected WZAQ in Louisa, Kentucky. The agent found that there was no record at the station showing that the station's tower at 38° 10' 33'' North Latitude and 82° 37' 39'' West Longitude, near Louisa, Kentucky was registered with the FCC. The Commission's Antenna Structure Registration database showed no record of this structure having been registered.

3. During the inspection on July 16, 2003, the agent interviewed the station's manager and the station's owner and verified that Louisa owned the tower. During the interviews, the agent noted that both individuals indicated knowledge that the antenna structure needed to be registered, but assumed that the station's attorney had taken care of the matter.

4. The Commission issued a license to Louisa dated January 16, 1992. The license shows the antenna structure is 91 meters above ground level and requires painting and lighting in accordance with paragraphs 1, 3, and 11, and 21 of FCC Form 715.

III. DISCUSSION

5. Section 17.4(a)(2) of the Rules requires antenna structures that had been assigned painting or lighting requirements prior to July 1, 1996 be registered prior to July 1, 1998. The station

¹ 47 C.F.R. §§ 17.4(a)(2)

license lists antenna structure painting and lighting requirements. As of the date of this Notice, Louisa still has not registered the antenna structure.

6. Based on the evidence before us, we find that Louisa willfully² and repeatedly³ violated Section 17(4)(a) of the Rules by failing to register its antenna structure. *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087, 17113 (1997), *recon. denied*, 15 FCC Rcd 303(1999) ("*Forfeiture Policy Statement*")⁴, sets the base forfeiture amounts at \$3,000 for failure to file the required forms or information (e.g. failure to register the antenna structure). In assessing the monetary forfeiture amount, we must take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934 ("Act"), as amended,⁵ which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require. Applying the *Forfeiture Policy Statement* and the statutory factors to the instant case and applying the inflation adjustments, we believe that a three thousand dollar (\$3,000) monetary forfeiture is warranted.

IV. ORDERING CLAUSES

7. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act⁶ and Sections 0.111, 0.311 and 1.80 of the Rules,⁷ Louisa is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of three thousand dollars (\$3,000) for willful and repeated violation Section 17.4(a)(2) of the Rules by failing to register an existing antenna structure that had been assigned painting or lighting requirements prior to July 1, 1996.

8. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, Louisa Communications SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

9. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The

² Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act" See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

³ Section 312(f)(2), which also applies to Section 503(b), provides: [t]he term "repeated", when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.

⁴ 47 C.F.R. § 1.80.

⁵ 47 U.S.C. § 503(b)(2)(D).

⁶ 47 U.S.C. § 503(b).

⁷ 47 C.F.R. §§ 0.111, and 0.311.

Federal Communications Commission

payment should note the NAL/Acct. No. 200432340001, and FRN 0003 7801 03.

10. The response, if any, must be mailed to Federal Communications Commission, Enforcement Bureau, Spectrum Enforcement Division, 445 12th Street, S.W., Washington, D.C. 20554 and MUST INCLUDE THE NAL/Acct. No. 200432340001.

11. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

12. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁸

13. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in forfeitures. If you qualify as a small entity and if you wish to be treated as a small entity for tracking purposes, please so certify to us within thirty (30) days of this NAL, either in your response to the NAL or in a separate filing to be sent to the Spectrum Enforcement Division. Your certification should indicate whether you, including your parent entity and its subsidiaries, meet one of the definitions set forth in the list provided by the FCC's Office of Communications Business Opportunities (OCBO) set forth in Attachment A of this Notice of Apparent Liability. This information will be used for tracking purposes only. Your response or failure to respond to this question will have no effect on your rights and responsibilities pursuant to Section 503(b) of the Communications Act. If you have questions regarding any of the information contained in Attachment A, please contact OCBO at (202) 418-0990.

14. IT IS FURTHER ORDERED THAT a copy of this NOTICE OF APPARENT LIABILITY shall be sent by Certified Mail, Return Receipt Requested, to Louisa Communications, Inc., P.O. Box 176, Louisa, KY 41230.

FEDERAL COMMUNICATIONS COMMISSION

Charles C. Magin
District Director
Columbia Office

Attachment A: Condensed List of Small Entities

⁸ See 47 C.F.R. § 1.1914.